

§ 744.17 Restrictions on certain exports and reexports of general purpose microprocessors for ‘military end uses’ and to ‘military end users’.

(a) *General prohibition.* In addition to the license requirements for anti-terrorism reasons set forth in Part 742 of the EAR, you may not export or reexport commodities described in ECCN 3A991.a.1 on the CCL (“microprocessor microcircuits”, “microcomputer microcircuits”, and microcontroller microcircuits having a processing speed of 5 GFLOPS or more and an arithmetic logic unit with an access width of 32 bit or more), without a license if, at the time of the export or re-export, you know, have reason to know, or are informed by BIS that the item will be or is intended to be used for a ‘military end-use,’ as defined in paragraph (d) of this section, in Country Group D:1 (see Supplement No. 1 to Part 740 of the EAR); or by a ‘military end-user,’ as defined in paragraph (e) of this section, in Country Group D:1. This license requirement does not apply to exports or reexports of items for the official use by personnel and agencies of the U.S. Government or agencies of a cooperating government. See § 740.11(b)(3) of the EAR for definitions of “agency of the U.S. Government” and “agency of a cooperating government”.

(b) *Additional prohibition on exporters or reexporters informed by BIS.* BIS may inform an exporter or reexporter, either individually by specific notice or through amendment to the EAR, that a license is required for export or reexport of items described in ECCN 3A991.a.1 to specified end-users, because BIS has determined that there is an unacceptable risk of diversion to the uses or users described in paragraph (a) of this section. Specific notice is to be given only by, or at the direction of, the Deputy Assistant Secretary for Export Administration. When such notice is provided orally, it will be followed by a written notice within two working days signed by the Deputy Assistant Secretary for Export Administration. The absence of any such notification does not excuse the exporter or reexporter from compliance

with the license requirements of paragraph (a) of this section.

(c) *License review standards.* There is a presumption of denial for applications to export or reexport items subject to this section.

(d) *Military end use.* In this section, the phrase ‘military end use’ means incorporation into: a military item described on the U.S. Munitions List (USML) (22 CFR part 121, International Traffic in Arms Regulations) or the Wassenaar Arrangement Munitions List (as set out on the Wassenaar Arrangement Web site at <http://www.wassenaar.org>); commodities classified under ECCNs ending in “A018” or under “600 series” ECCNs; or any commodity that is designed for the “use,” “development,” “production,” or deployment of military items described on the USML, the Wassenaar Arrangement Munitions List or classified under ECCNs ending in “A018” or under “600 series” ECCNs. Supplement No. 1 of this part lists examples of ‘military end use.’

(e) *Military end-user.* In this section, the term “military end-user” means the national armed services (army, navy, marine, air force, or coast guard), as well as the national guard and national police, government intelligence or reconnaissance organizations, or any person or entity whose actions or functions are intended to support “military end-uses” as defined in paragraph (d) of this section.

(f) *Exceptions.* No License Exceptions apply to the prohibitions described in paragraphs (a) and (b) of this section.

[68 FR 1797, Jan. 14, 2003, as amended at 72 FR 43531, Aug. 6, 2007; 72 FR 62533, Nov. 5, 2007; 73 FR 6605, Feb. 5, 2008; 78 FR 22723, Apr. 16, 2013]

§ 744.18 Restrictions on exports, reexports, and transfers to persons designated in or pursuant to Executive Order 13315.

Consistent with Executive Order (E.O.) 13315 of August 28, 2003 (“Blocking Property of the Former Iraqi Regime, Its Senior Officials and Their Family Members, and Taking Certain Other Actions”), BIS maintains restrictions on exports, reexports, and transfers to persons designated in or pursuant to E.O. 13315. These persons

include individuals and entities listed in the Annex to Executive Order 13315, as well as persons subsequently designated pursuant to criteria set forth in the order. OFAC includes the names of persons designated pursuant to E.O. 13315 in Appendix A to 31 CFR Chapter V, which lists persons subject to various sanctions programs administered by OFAC. All persons designated in or pursuant to E.O. 13315 are identified in Appendix A by the bracketed initials [IRAQ2].

(a) *License Requirements.* (1) A license requirement applies to the export, re-export, or transfer of any item subject to the EAR to—

(i) Persons listed in the Annex to E.O. 13315 of August 28, 2003; or

(ii) Persons determined to be subject to E.O. 13315.

(2) To avoid duplication, U.S. persons are not required to seek separate BIS authorization for an export, reexport, or transfer to a person identified in paragraph (a) of this section of any item subject to both the EAR and regulations maintained by OFAC. Therefore, if OFAC authorizes an export from the United States or an export, reexport, or transfer by a U.S. person to a person identified in paragraph (a) of this section, no separate authorization from BIS is necessary.

(3) U.S. persons must seek authorization from BIS for the export, reexport, or transfer to a person identified in paragraph (a) of this section of any item subject to the EAR but not subject to regulations maintained by OFAC.

(4) Non-U.S. persons must seek authorization from BIS for the export from abroad, reexport, or transfer to a person identified in paragraph (a) of this section of any item subject to the EAR.

(5) Any export, reexport, or transfer to a person identified in paragraph (a) of this section by a U.S. person of any item subject both to the EAR and regulations maintained by OFAC and not authorized by OFAC is a violation of the EAR.

(6) Any export, reexport, or transfer by a U.S. person to a person identified in paragraph (a) of this section of any item subject to the EAR that is not subject to regulations maintained by

OFAC and not authorized by BIS is a violation of the EAR. Any export from abroad, reexport, or transfer by a non-U.S. person to a person identified in paragraph (a) of this section of any item subject to the EAR and not authorized by BIS is a violation of the EAR.

(7) These licensing requirements supplement any other requirements set forth elsewhere in the EAR.

(b) *Exceptions.* No License Exceptions or other BIS authorizations are available for export, reexport, or transfer to a person identified in paragraph (a) of this section of any item subject to the EAR.

(c) *Licensing policy.* Applications for licenses for the export, reexport, or transfer to a person identified in paragraph (a) of this section of any item subject to the EAR will generally be denied. You should consult with OFAC concerning transactions subject to OFAC licensing requirements.

(d) *Contract sanctity.* Contract sanctity provisions are not available for license applications reviewed under this section.

[69 FR 46076, July 30, 2004]

§ 744.19 Licensing policy regarding persons sanctioned pursuant to specified statutes.

Notwithstanding any other licensing policy elsewhere in the EAR, BIS will deny any export or reexport license application if any person who is a party to the transaction (*i.e.*, the applicant, other party authorized to receive a license, purchaser, intermediate consignee, ultimate consignee, or end-user) is subject to one or more of the sanctions described in paragraphs (a), (b), (c), and (e) of this section and will deny any export or reexport license application for an item listed on the Commerce Control List with a reason for control of MT if a person who is a party to the transaction is subject to a sanction described in paragraph (d) of this section.

(a) A sanction issued pursuant to the Iran-Iraq Arms Nonproliferation Act of 1992 (50 U.S.C. 1701 note) that prohibits the issuance of any license to or by the sanctioned person.